

ORDINANCE A

(Enacting the Land Use Management Ordinance Text Amendment proposal)

AN ORDINANCE AMENDING THE CHAPEL HILL LAND USE MANAGEMENT ORDINANCE SECTION 3.6.2 HISTORIC DISTRICTS RELATED TO CERTIFICATE OF APPROPRIATENESS REQUIRED AND REVIEW CRITERIA AND SECTION 8.4 HISTORIC DISTRICT COMMISSION (2021-04-21/O-3)

WHEREAS, Legislative updates in Chapter 160D of the North Carolina General Statutes provide that the Historic District Commission shall “adopt principles and standards to guide the commission in determining congruity with the special character of the landmark or district for new construction, alterations, additions, moving, and demolition;” and

WHEREAS, the A through J review criteria outlined in Land Use Management Ordinance (LUMO) 3.6.2(e)(4) predate the adoption of the 2001 *Design Guidelines for the Chapel Hill Historic Districts* (“*Design Guidelines*”); and

WHEREAS, on September 23, 2019, Planning Department staff provided a recommendation to the Council Committee on Boards & Commission to amend the LUMO following the adoption of the Design Principles and Standards to provide greater clarity on the legal basis for application of the Design Principles and Standards in the Commission’s review of Certificate of Appropriateness (COA) applications; and

WHEREAS, the Historic District Commission adopted the Design Principles & Standards on March 18, 2021, and the A through J criteria do not reflect the guidance provided in this document; and

WHEREAS, the Historic District Commission reviewed the text amendments to the Land Use Management Ordinance Article 3, Section 3.6.2 and Article 8, Section 8.4 on February 9, 2021 and recommended that the Council enact the text amendments; and

WHEREAS, the Planning Commission reviewed the text amendments to Land Use Management Ordinance Article 3, Section 3.6.2 and Article 8, Section 8.4 on March 2, 2021 and recommended that the Council enact the text amendments; and

WHEREAS, the Council called a Public Hearing on March 24, 2021 to amend Article 3, Sections 3.6.2 of the Land Use Management Ordinance as it relates to the Historic District Commission’s Review Criteria applied to Certificates of Appropriateness application and Article 8, Section 8.4 Historic District Commission; and

WHEREAS, the Council continued and held that public hearing on March 24, 2021, receiving comments through 11:59 PM on March 25, 2021, and closed the public hearing at that point; and

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed text amendment to the Land Use Management Ordinance (LUMO) Article 3, Section 3.6.2 related to Historic District Commission’s Review Criteria applied to Certificates of Appropriateness application and Article 8 Section 8.4 Historic District Commission, and finds that the amendment, if enacted, is reasonable and in the public’s interest and is warranted, to achieve the purposes of the Comprehensive Plan as explained by, but not limited to, the following goals of the Chapel Hill 2020 Comprehensive Plan:

- A vibrant, diverse, pedestrian-friendly, and accessible downtown with opportunities for growing office, retail, residential, and cultural development and activity (Good Places, New Spaces.2)
- A development decision-making process that provides clarity and consistency with the goals of the Chapel Hill 2020 comprehensive plan (Good Places, New Spaces.3)
- A range of neighborhood types that addresses residential, commercial, social, and cultural needs and uses while building and evolving Chapel Hill's character for residents, visitors, and students (Good Places, New Spaces.5)

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Town Code of Ordinances, Appendix A. Land Use Management Ordinance, be amended as follows:

Section 1. Section 3.6.2.(b) *Certificate of appropriateness required* is hereby revised to read as follows:

3.6.2 Historic Districts.

“(b) Certificate of appropriateness required.

(1) No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), or any aboveground utility structure, or any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished within the historic district until an application for a certificate of appropriateness as to exterior architectural features has been approved. For purposes of this article, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs.

(2) A certificate of appropriateness shall be issued prior to the issuance of a zoning compliance permit or any other permit granted for purposes of constructing, altering, or demolishing buildings or structures. A certificate of appropriateness shall be required whether or not a zoning compliance permit is required. Any zoning compliance permit or other permit not issued in conformity with this section shall be invalid.

(3) The town and all public utility companies shall be required to obtain a certificate of appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property owned or franchised by the Town of Chapel Hill or public utility companies, excluding regulatory signs, other traffic control measures and devices, and utility distribution systems located in public right-of-way.

(4) A certificate of appropriateness application and amendments to a certificate of appropriateness application may be reviewed and approved by the town manager according to specific review criteria contained in state law and guidelines-Design Principles and Standards approved by the commission when the application is determined to involve minor work. Minor works are defined as those exterior

changes that do not involve any substantial alterations, and do not involve additions or removals that could impair the integrity of the property and/or the district as a whole. Such minor works shall be limited to those listed in the Commission's ~~Rules of Procedure~~ Design Principles and Standards, or a successor document. No application involving a minor work may be denied without the formal action of the commission. Ordinance requirements for notification of affected property owners must be met for all applications."

Section 2. Section 3.6.2.(e) Review Criteria is hereby revised to read as follows:

"(e) *Review criteria.*

~~(1) In considering an application for a certificate of appropriateness, the review shall take into account the historical and/or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure, as informed by the Historic District Design Guidelines. When considering the application, the Commission shall apply the Design Principles and Standards and shall, in approving, approving with conditions, disapproving, or deferring an application, make findings of fact indicating the extent to which the application is or is not in compliance with the Design Principles and Standards, and shall cause these findings of facts to be entered into the minutes of its meetings. The minutes shall also contain a summary of any citation to evidence, testimony, studies, or other authority upon which the Commission based its decision.~~

(2) The review shall not consider interior arrangement or use.

(3) The review shall not consider plantings and other vegetation.

(4) The review shall not consider paint color.

~~(3) The commission, using the criteria below, shall make findings of fact indicating whether the application is or is not congruous with the historic aspects of the historic district. The commission, in its written decision, shall reference testimony or documents in the record of the hearing as appropriate and necessary in order to inform all parties of the basis of these findings of fact.~~

~~(4) The following criteria shall be considered, when relevant, by the commission in reviewing applications for a certificate of appropriateness:~~

~~A. The height of the building in relation to the average height of the nearest adjacent and opposite buildings.~~

~~B. The setback and placement on lot of the building in relation to the average setback and placement of the nearest adjacent and opposite buildings.~~

~~C. Exterior construction materials, including texture and pattern.~~

~~D. Architectural detailing, such as lintels, cornices, brick bond, and foundation materials.~~

~~E. Roof shapes, forms, and materials.~~

~~F. Proportion, shape, positioning and location, pattern, and size of any elements of fenestration.~~

~~G. General form and proportions of buildings and structures.~~

~~H. Appurtenant fixtures and other features such as lighting.~~

~~I. Structural conditions and soundness.~~

~~J. Architectural scale.”~~

Section 3. Section 8.4. Historic District Commission is hereby revised to read as follows:

8.4.6. Powers of the Commission.

“The commission is authorized and empowered to undertake actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this appendix and in Chapter 160D, Article 9, Part 4 of the N.C. General Statutes, including but not limited to the following:

(a) To recommend to the planning commission and council areas for designation by ordinance as historic districts;

(b) To recommend to the planning commission and council that designation of any areas as a historic district be revoked or removed;

(c) To recommend to the planning commission, council, and the State of North Carolina structures, sites, objects, or districts worthy of local, state, or national historical recognition;

(d) To propose to the council amendments to this chapter or to any other ordinance relating to the historic district, and to propose new ordinances or laws relating to the historic district or to a program for the development of the historical resources of the Chapel Hill community;

(e) To request the council to hold public hearings on matters within the purview of the commission;

(f) To hear and decide applications for certificates of appropriateness in accord with article 3 of this appendix; (Ord. No. 2004-02-23/O-2)

(g) To establish guidelines principles and standards under which the town manager shall approve applications for certificates of appropriateness covering minor modifications on behalf of the commission;

(h) To undertake, on its own or in collaboration with any other commission, board, agency, society, or organization, any programs of information, research, or analysis relating to any matters under its purview;

(i) To cooperate with other commissions, boards, or agencies of the town or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the commission's purview or of mutual interest;

(j) To participate in negotiations with owners and other parties in an effort to find means of preserving historic buildings scheduled for demolition;

(k) To provide advice to owners of property located within the historic district concerning the treatment of the historical and visual characteristics of their properties, such as color schemes, gardens and landscape features, and minor decorative elements;

(l) To publish information or otherwise inform owners of property located within the historic district about any matters pertinent to the commission's duties, organization, procedures, responsibilities, functions, or requirements;

(m) To contract, in accord with established town policies and procedures, for services or funds from agencies or departments of the State of North Carolina and the United States government;

(n) To accept funds granted to the commission from private or non-profit organizations;

(o) To organize itself and conduct its business by whatever legal means it deems proper;

(p) To report violations of this appendix or related ordinances to the local official responsible for the enforcement thereof;

(q) To exercise, within the historic district, all the powers and duties of the Chapel Hill Community Design Commission;

(r) To exercise such other powers and to perform such other duties as are authorized or required elsewhere by this appendix, the N.C. General Statutes, or by the council."

Section 4. This ordinance shall be effective upon enactment.

This the 21st day of April, 2021.